

## Analysis of experience using human rights to accelerate WASH access in four countries

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### ABSTRACT

Human rights to water and sanitation have been widely recognised in legal instruments at the international, regional, and national levels of governance. More awareness of states' obligations has provided additional impetus to promote human rights in policy advocacy. The international non-governmental organisation WaterAid, as a non-state actor specialising in the water, sanitation, and hygiene services (WASH) sector, adopts a human rights-based approach (HRBA) to WASH programming. This paper draws on the experiences from WaterAid WASH projects in four countries – Nepal, Ghana, Mali, and Burkina Faso, to evaluate the practical impacts of the HRBA to ensure that governments fulfil their responsibility to realise universal access to water and sanitation services in different contexts. The outcomes highlight that three important contributions of the HRBA: (1) generates greater awareness among rightsholders and duty bearers about responsibilities and entitlements over safe drinking water and sanitation; (2) promotes constructive engagement between the government and rightsholders; and (3) equips people with the motivation, skills, and agency which are critical dimensions to work on sustainable WASH. The WASH sector should, therefore, embrace the power of human rights and invest in the specific activities and frameworks to integrate human rights into systems strengthening the WASH sector, while continuing to analyse and learn how to adapt and improve the approach in different contexts.

**Key words:** human rights-based approach, human rights to water and sanitation, WASH practice

### HIGHLIGHTS

- The human rights to water and sanitation can add value to other interventions when used as a driver for change, policy content, and people-centred approach.
- This paper analyses the experience of using human rights to advance WASH coverage in Nepal, Ghana, Burkina Faso, and Mali, to assess the impact and examine the potential of using human rights to water and sanitation in different low-income countries.

### INTRODUCTION

The international human rights to water and sanitation were affirmed as legally binding by the Human Rights Council in September 2010. The rights have been increasingly domesticated through national constitutions and laws and recognised in case of law across countries. The nature of economic, social, and cultural rights requires states to commit their maximum available resources to the progressive realisation of the rights to water and sanitation for all without discrimination and to avoid retrogression. Relying on the recognition of the rights to water and sanitation in international and domestic legal instruments, unserved and underserved populations around the world have engaged in activism, advocacy, and adjudication, among other strategies for holding states, and where relevant non-state actors, to account and promote improved access to water and sanitation services.

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Many states that have either endorsed the rights to water and sanitation at the international level or integrated the same in their domestic legal frameworks nonetheless lag behind in the water, sanitation, and hygiene (WASH) services coverage within their jurisdictions. This demonstrates that the formal recognition of the rights to water and sanitation does not automatically translate into improvements in access, particularly for populations in vulnerable situations, unless active measures are taken to embed the rights in policy and practice. Unsurprisingly, the world is off-track to meet the Sustainable Development Goal (SDG) to ensure universal access to water and sanitation, including hygiene – SDG6 which complements the human rights to water and sanitation to some extent (Obani 2020; WHO & UNICEF 2021). The lack of adequate action to back the political commitments to ensure universal access to WASH is due to weak political will at all levels of governance and inadequate financing combined with threats to water from climate change, increasing demands for water, and ecosystem degradation (Obani & Gupta 2016). At local levels, the challenges are exacerbated by a lack of autonomy over funding to match the decentralised responsibility for WASH services, weak prioritisation in development plans, and weak accountability mechanisms (Obani & Gupta 2016). In most situations, water and sanitation are under-valued public services that are rarely understood or articulated as fundamental human rights. More so, access to water and sanitation is often considered to be a privilege rather than a human right obligation of the state.

Increasing awareness of states' obligations as the primary duty bearer has provided additional impetus to promote human rights in policy advocacy, just as the relevance and usefulness of applying the human rights to water and sanitation in different contexts has been increasingly examined in academic literature (Angel 2019; Fantini 2019; Faulkner *et al.* 2021). As a non-state actor specialising in WASH, the international non-governmental organisation (INGO) WaterAid has developed a human rights-based approach (HRBA) to WASH programming that evolved over several years of experience in applying human rights principles to its work in different countries (Gosling 2014). The HRBA has a focus on equality and non-discrimination, accountability of duty bearers, empowerment and participation of rights holders, and strengthening platforms and systems for engagement. This paper reflects on the use of the HRBA in WASH programming by WaterAid as a tool to ensure that governments fulfil their responsibility to realise universal access to water and sanitation services in different contexts. It examines how the tool is being applied and to what effect, through cross-country analysis, drawing on the project experiences of WaterAid in WASH services delivery in four country programmes: Nepal, Ghana, Mali, and Burkina Faso. The method section of the paper covers WaterAid's approach and the data collection and analysis. The results and discussion section of the paper examines the impacts of the HRBA as applied by WaterAid and its partners and demonstrates factors that affect progress based on the highlighted projects. The paper finds that while there are legal, political, institutional, and other limitations to the human rights to water and sanitation in different contexts, the HRBA remains a significant tool in the struggle for access to WASH for people in vulnerable situations.

## METHODS

### Overview of WaterAid's HRBA

WaterAid designs its programmes in each country based on the understanding that WASH exists in complex systems with many component parts and within different social, economic, political, and environmental contexts. This systems approach involves a process of analysis, implementation, adaptation, and learning in order to address the barriers to the achievement of inclusive, sustainable, universal access to WASH. Applying human rights principles and standards brings a particular focus on equality and non-discrimination and accountability, achieved through sensitising rights holders and duty bearers on the human rights to water and sanitation and strengthening the engagement between rights holders and duty bearers for accountability and inclusion at various levels. These efforts are carried out in collaboration with other stakeholders including civil society organisations and networks, communities, National Human Rights Institutions, parliamentarians, and the media. WaterAid always works closely with local government and communities to strengthen community ownership, integrate WASH into local development plans, mobilise resources, and hold duty bearers accountable for delivering on commitments. While there are many common elements of the HRBA in the selected countries, each project is designed to address context-specific barriers, opportunities, and priorities.

## Data collection and analysis

This paper is based on the experience of the authors, five of whom are directly involved in managing the highlighted WASH projects in this paper, supported by the review of project documentation including learning briefs, evaluations, media reports, and changes in government policy and plans. The contents of the project documentation have been analysed to identify any commonalities or differences across the countries. It is difficult to analyse all the legal and policy instruments across WASH and related sectors such as housing, education, and health, which could be relevant to promote the realisation of the human rights to water and sanitation, mainly due to the lack of codification of the laws applicable to the sector. However, there have been some recent attempts at the legal mapping of the extent of domestication of the international commitments that provide an overall picture applied in the paper (WaterLex 2018; UNU-INRI 2020). Following this, the outcomes are presented through a three-dimensional framework that was developed by the former United Nations Special Rapporteur on the human rights to safe drinking water and sanitation, which identifies the benefits of human rights as a driver, as a policy tool, and as a people-centric approach (Heller 2020).

Human rights as a driver indicates the importance of a HRBA to water and sanitation in order to identify groups in vulnerable situations who lack access to water and sanitation services and understand the underlying 'causes of the attributes and the structural determinants, or drivers, of the exclusion' (Heller 2020). Based on this analysis, WASH stakeholders can address the causes and drivers of exclusion, working with both rightsholders and duty bearers to eliminate the obstacles to progress. The idea of human rights is also closely associated with concepts of justice and fairness which motivate, mobilise, and unite people to strive for change. Hence, the concept of human rights as a driver is explored in the paper to explore the extent to which the WaterAid programmes have interrogated the structural causes of inequalities and the mobilising power of rights to address them.

Human rights in policies focus on the incorporation of the rights to water and sanitation in the legal, political, institutional, and regulatory 'dimensions of rights' as well as evaluation of the human rights gaps in each dimension. The human rights in policies lens are therefore used in the paper to explore how WaterAid has sought to identify gaps and opportunities to strengthen the policy and legal frameworks needed to respect, protect, and fulfil the human rights to water and sanitation.

Human rights and a people-centric approach emphasise the need to mainstream rightsholders and rights protection. The paper adopts this lens to explore how the highlighted programmes have worked directly with different groups and increased the focus of governments on identified marginalised groups.

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## RIGHTS-BASED APPROACHES IN PRACTICE: THE FOUR COUNTRY PROGRAMMES

This section briefly describes how WaterAid has applied a HRBA in selected projects in four of the countries in which it works.

In Nepal, the sustainable WASH project (HSBC Water Programme II) from June 2017 to December 2019 was explicitly based on human rights, from the context analysis through to design, implementation, and monitoring. The overall aim was to contribute to the realisation of human rights to water and sanitation as enshrined in the Constitution of Nepal (2015). WaterAid Nepal worked with different partners: Karnali Integrated Rural Development and Research Center (KIRDARC) in Jumla and Kalikot districts, the Centre for Integrated Urban Development (CIUD) in Kavre District, and for advocacy at the national level collaborated with the NGO Federation of Nepal and the Federation of Drinking Water and Sanitation Users Nepal (FEDWASUN).

The project was based on a systematic process to identify marginalised communities with poor access to WASH. A study by Overseas Development Institute (ODI), commissioned by WaterAid, analysed possible pathways to reduce inequalities in access to WASH in Nepal (Sarwar 2017). This was followed by Participatory Action Research (PAR) in Kavre, Kalikot, and Bardiya districts (Sanoj Tulachan 2019) to identify the marginalised and most deprived groups, analyse their situation in relation to rights to water and sanitation, and identify ways to work with them to overcome the barriers. WaterAid Nepal selected the project areas in consultation with district and local authorities, also considering the needs of the communities, remoteness, marginalisation, and the presence of socially discriminated or disadvantaged populations.

WaterAid then did a rapid assessment of the contexts, based on human rights norms, and in collaboration with the implementing partners, assessed the capacities of rights holders and duty bearers to claim and fulfil the rights to water and sanitation, respectively. Based on these analyses of the challenges, stakeholders, and available resources, interventions were designed to address the identified problems.

WaterAid and partners provided training and orientation for rights holders (including water user committees and community members) on the human rights to water and sanitation and on social accountability mechanisms. They also provided training for duty bearers (municipal and provincial leaders) on their obligations with respect to human rights. WaterAid constructed some WASH facilities as models that meet human rights standards that can be replicated by duty bearers. Social accountability mechanisms were established to monitor the status of WASH and hold duty bearers accountable for their obligation towards rights holders. These tools include Jal Kachhari (public audit), a local participatory platform organised by municipal authorities where people, including those who do not have access to services such as water and sanitation, can share their views and raise concerns to the local government. This tool has been instrumental in informing the community people about the WASH budget plan and expenditure of their municipality, as well as increasing their understanding of programme quality and monitoring.

As WaterAid and partners engage with duty bearers and rights holders, they actively promote the fact that the human rights to water and sanitation are enshrined in the Constitution of Nepal of 2015. They have produced several manuals and training materials in local languages to explain this and show how the rights are relevant to the situation of communities.

In Ghana, WaterAid's WASH for Public Health (WASH4PH) project funded by Global Affairs Canada (GAC) (2015–2019) was designed to improve the health outcomes of boys, girls, women, and men in Ghana's Upper East Region, with a specific focus on Bongo and Kassena Nankana West Districts. This was done using an integrated approach to public health that incorporated improved WASH into district-wide development and health service delivery planning, implementation, and management. The district-wide approach involved strengthening systems, plans, finances, skills, knowledge, coordination, and accountability mechanisms to achieve sustainable and universal access to WASH services. The project used an endogenous development and a HRBA in its implementation process. Partners were Widows and Orphans Movement (WOM), Centre for Indigenous Knowledge and Organizational Development (CIKOD), and Global Platform Ghana.

The project partners work through rooted advocacy in the districts, strengthening the capacities of communities, via individuals and institutions to advocate for their rights. This involves a general sensitisation on the rights to WASH for partner communities, capacity strengthening on advocacy for individuals identified by the community, and the subsequent development of community advocacy teams. Advocacy groups in communities are supported to mobilise around services (quality, quantity, and safety) – holding themselves, the government, and other duty bearers accountable for sustainable services. The project activities include capacity strengthening on rights, leadership, team building, hygiene, entrepreneurship, and on evidence-based advocacy for the advocacy groups and for women's groups in the communities. The specific focus on women's groups supports more active participation of women in the community advocacy groups and provides them with more confidence and capacity to take advantage of other development opportunities. WaterAid also carried out training with the groups on the Make Rights Real approach (Carrard 2020) on how best to work collaboratively with duty bearers, aligning demands with their incentives and responsibilities.

WaterAid also works directly with duty bearers, supporting them to recognise their obligations to ensure access to sustainable and equitable WASH services for all and to be accountable to rightsholders. This includes building the capacity of local government authorities – Metropolitan, Municipal, and District Assemblies (MMDAs), Ghana Health Service (GHS), and Ghana Education Service (GES) who are at the frontline of WASH service delivery. WaterAid Ghana (WAG) recognises that the supply side must also be strengthened to facilitate equitable and efficient service delivery systems, which are accountable to rightsholders. Support includes providing demonstration WASH facilities in health centres, schools, and communities. It also includes training and coaching on the obligations of MMDAs towards fulfilling the rights of its people (with a focus on right to WASH). A total of 28 advocacy groups in three Municipal and Districts assemblies (Wa Municipal, Bongo, and Kassena Nankana West) with a membership of 431 members and 90 MMDA staff have been strengthened in the three MMDAs.

At the national level, WaterAid uses human rights content in advocacy with a national advocacy platform: the Coalition of NGOs in the Water and Sanitation sector (CONIWAS), and forming alliances and networks with other stakeholders in the sector to ensure coordinated efforts to influence politicians and bureaucrats to effect change, based on an action plan to implement the human rights to water and sanitation prepared by the Centre for Housing Rights and Eviction, WaterAid, and CONIWAS (CONIWAS 2015).

In Mali, the 'Ji Ni Beseya' project, funded by WaterAid and One Drop, aims to increase access to safe water and sanitation services in nine rural communes in the districts of Kati and Bla, collaborating on behaviour change

with the social arts organisation Centre Culturel Kôrè. A HRBA was used with local authorities, citizens, and technical services. The project was carried out with partners Association Libre pour la Promotion de l'Habitat et du Logement (ALPHALOG), Association for the Promotion of Women and Children in Mali (APROFEM), NGO CARP, and La Société de Développement International (SDI-Mali).

Another project in Bamako, 'Improving Access to Sanitation', involved the establishment of the citizen jury, capacity building of authorities and citizens on human rights, budget monitoring, advocacy and contributed to the institutionalisation of a framework for dialogue between citizens and authorities of the municipality, and improvement of the budget of the municipality allocated to sanitation and water. The project was implemented in collaboration with the partner Association Malienne pour la Sauvegarde du Bien-être Familial (AMASBIF).

In these projects, WaterAid Mali and its partners have built the capacity of citizens and authorities on the HRBA, advocacy, and leadership. The Ji Ni Beseya project organised spaces for questioning, and citizen watch committees, women's and youth groups were set up and strengthened on the HRBA and leadership to improve their participation in the planning and budgeting process of development actions. The project has also facilitated the renewal of local development plans and the integration of WASH into planning tools in all the project intervention communes.

They have also helped to establish accountability and dialogue frameworks at the local level to address inadequate WASH in Bamako. These include spaces for democratic interpellation, Citizen Juries, joint dialogue, and public hearings. WaterAid has supported their local partner Coalition pour l'Accès à l'Eau Potable, l'Hygiène et l'Assainissement (CAEPHA) to monitor and provide evidence on cases of violations of rights to water and sanitation. They were able to mobilise community members in Gouana, near Bamako airport where the pit emptying association was dumping faecal sludge. The community members gathered evidence that was used in collaborative advocacy with National Human Rights Institutions (CNDH) and included in Mali's report to the UN on human rights violations. Additional advocacy with parliamentarians and the media helped increase demand for government response which has now committed to allocate land for a faecal sludge treatment station.

The advocacy aims to influence governments, parliamentarians, and local elected officials to change laws, policies, and strategies in favour of WASH rights using the following concepts: respect for the principles of equity, equality, and non-discrimination; protection of the rights of the most vulnerable; allocation of sufficient resources; responsibility and leadership of authorities; accountability of officials and advocacy for the reduction of inequalities, including gender inequalities.

In Burkina Faso, all WaterAid's projects integrate the promotion of human rights to water and sanitation and include components related to the HRBA. In particular, the 'Mission Fas'Eau' project (2017–2020) was designed to achieve two outputs: For the Ministry in charge of water to ensure the respect and implementation of the right to water and sanitation in the investment decision-making processes, and access to WASH services and water resources management. And for public institutions and civil society organisations to ensure the protection and defence of the human rights through developing information and capacities and actions to monitor and influence public action in Integrated Water Resources Management (IWRM) and WASH.

The Fas'Eau<sup>1</sup> mission, funded by the Ministry of Foreign Affairs of Denmark (DANIDA) and Oxfam, is implemented by a consortium of 11 civil society organisations led by WaterAid and IRC WASH<sup>2</sup>, and five media organisations.<sup>3</sup> This project uses several means to enable citizens to claim their rights to water and sanitation. The first is by raising awareness among rights holders and duty bearers using training modules developed at the national level to build the capacity of different actors (national and local elected officials, state services, civil society organisations, community agents, etc.) on the HRBA. The training is based on the commitments made in the Burkinabe constitution of November 2015 and the President's commitments to achieve the zero-hours water fetching vision.

The capacity building enables civil society organisations and other actors, such as media professionals, local water committees, water user associations, and other community-based organisations, to better understand

<sup>1</sup> <https://faseau.com/>.

<sup>2</sup> Association of Women Lawyers of Burkina Faso (AFJ/BF), Centre pour la Gouvernance de l'Eau et de l'Environnement (CG2E), Comité National du Livre Bleu (CNLB), Eau Vive, Ligue des Consommateurs du Burkina (LCB), Lay Volunteers International Association (LVIA), Mouvement Burkinabè des Droits de l'Homme et des Peuples (MBDHP), Musée de l'Eau, Secrétariat Permanent des ONG, Associations de Développement (SPONG).

<sup>3</sup> Faszine, Lefaso.net, Radio Oméga, Radio Télévision du Burkina (RTB), Radio Savane FM.



and advocate for the rights to water and sanitation. The training is reinforced by public campaigns to promote the human rights to water and sanitation through popular events such as the Tour du Faso or the Pan-African Film Festival of Ouagadougou (FESPACO), which attract large numbers of people; through events such as the celebration of World Water Day; by influencing national and local elections to ensure that candidates include water and sanitation in their programmes; and finally, through working with the media at all levels to disseminate messages and raise awareness. These actions reinforce other efforts to inform citizens about their rights.

The project has included the creation, animation, and promotion of accountability frameworks on the effectiveness of the rights to water and sanitation. These frameworks are created at both national and local levels and allow citizens to dialogue, question, and raise issues related to the implementation of the human rights to water and sanitation.

WaterAid has supported five studies that contribute to understanding the rights in Burkina Faso: the definition of indicators for the analysis of the WASH sector performance with regard to HR principles (*Mission de Gestion du Fonds DANIDA 2018*); the inadequacies and limitations of the WASH and IWRM consultation and decision-making platforms: the consideration of HRBA in water and sanitation legislation (*WaterAid 2018*); the socio-cultural levers of HRBA in water and sanitation (*FAS'EAU 2018*); and the justiciability of human rights violations to water and sanitation (*WaterAid Burkina Faso 2018*).

The study on justiciability was presented to the presidents of the High Courts (TGI) and executives of the Ministry of Justice, Human Rights, and Civic Promotion. This action allowed for reflection on the one hand on the reasons why citizens are not in the habit of referring to the courts in case of violations of the rights to water and sanitation and on the other hand on the need to strengthen the awareness of citizens on the possibility of referring to the courts in case of violation of their human rights to water and sanitation.

## RESULTS AND DISCUSSION

In this section, the three-dimensional framework described above is applied to look in more detail at the effect of using rights in the selected countries and projects as previously presented, demonstrating what factors enable more or less progress to be made.

### Human rights as a driver

All four countries show tangible evidence of productive engagement between rightsholders and duty bearers resulting in commitments and resources from authorities and communities to overcome barriers to WASH access for marginalised communities.

In Nepal, the project interventions were based on analysis of causes of exclusion to ensure that marginalised and vulnerable people are able to participate actively in the planning process using tools like community score cards that enable users and user committees to assess the WASH situation as a basis for planning improvements to meet human rights standards. The discussions with municipal authorities at the 'Jal Kachahari' platforms have enabled them to agree how to address the demands related to water and sanitation and resulted in commitments from duty bearers to prioritise WASH in the municipal budget allocation. As reported in the Jumla district-based newspaper (*Mountain Today Daily 2019*) on 26th November 2019, *'the Municipal authority committed to organize JALKACHAHARI twice a year, Allocate at least 20% of their budget for WASH, and ensure that at least 33% of community participants at the hearings should be marginalized and discriminated people'*. This commitment, to continue holding Jal Kachahari beyond the project period, was considered a strong sign of sustainability of the project impact, although fewer people are currently able to attend the meetings due to Covid restrictions.

Through the public hearings, the local authorities have realised their responsibility for implementing the one house one tap policy of the government and have incorporated this into their plans. Meanwhile, WaterAid has provided demonstration schemes that fulfil this policy in communities and institutions that comply with human rights standards of accessibility and acceptability and that can be replicated by the authorities.

In Ghana, the first step to realising rights is being aware of rights and people are now moving beyond this to engage and demand. We are seeing this in the communities we are working in. The community advocates were trained on human rights concepts using the 'make rights real' approach (*Carrard 2020*) designed to make human rights relevant and actionable for local authorities with a process of constructive engagement between civil society and local government professionals. Community members who started using this approach for WASH advocacy are now using the knowledge and skills gained to engage with duty bearers for electricity, healthcare

centres, and other needs: representatives of the community have liaised with the community to identify priority issues, written to the assembly to ask for things they need, and kept a record of requests for follow-up and to hold the District Assembly (DA) to account. This has already produced some tangible results in a response from the DA, complemented by community contributions, including the provision of boreholes in two communities; the building of a kindergarten with three rooms that are conducive for learning, the provision of benches for pregnant women waiting at health centres, and the repair of a fridge for storing medicines in the Chief's compound. Furthermore, the community groups are now an important resource for on-going work in the region.

As a result of the sustained engagement between communities and duty bearers at the district level, the budget allocation is being prioritised. Although the national allocation for WASH has been reduced overall, the Bongo District Metropolitan, Municipal and District Assembly (MMDA), where community advocates have been engaging persistently with the technocrats and Assembly Members, has increased the allocation and reported at the National Level Exchange on District-Wide Initiatives Platform on WASH that this was due to increased demand from communities (Ayinbisa 2020). There have also been changes at the national level where WaterAid has contributed to the influencing work of CONIWAS and the Vice president has made a commitment to establish a sanitation authority.

The outcome is that the communities have become capable of making change independently of WAG. For instance, Kalvio-Gugoro advocacy group gathered WASH evidence on their Community-Based Health Planning and Services (CHPS) compound and actively supported the community to organise a health forum. This enabled them to engage with the District Health Services in providing services, such as electricity, drugs, a refrigerator, and water, as well as sanitation facilities, to make the facility fully functional upon completion.

Results in Mali include an increase in participation of women and young people in the decision-making process in rural areas in the Cercle of Bla where the HRBA work has included support for women's groups to grow and be more involved in WASH decision-making. In urban areas, citizens are involved in the budget process at the local level, resulting in budget increases for WASH through the local authorities' planning document Programme de Développement Économique Social et Culturel (PDSEC) – which is revised every 5 years. Citizens and authorities discuss the problems in WASH and where the resources can come from. Often the municipality does not have enough money to meet the communities' needs in which case the municipality and communities together advocate the state for support, following up to make sure that money allocated to budgets is, in fact, transferred.

In a separate activity, as described above, WaterAid supported the mobilisation of the citizens of Gouana, a marginalised community where the Pit Emptiers' Association were emptying sludge, to claim their rights to sanitation by organising sit-ins, interactive radio programmes, advocacy meetings, and submitting evidence to the report of the National Human Rights Institution. As a result, the state accepted their responsibility as duty bearer and committed to supply land for a faecal sludge management station.

WaterAid has also seen progress in embedding principles of accountability at the national level through the establishment of an annual consultation framework for the sector; increased citizen participation in the planning process of the local budget and the restitution of the administrative account, and improved governance in favour of sanitation where there has been a more than 46% increase in the budget allocated to sanitation in the 5th commune of the District of Bamako (CVI) (Traore 2019).

In Burkina Faso, one of the major results is that there is now a critical mass of citizens who understand the scope and stakes of the recognition of the human rights to water and sanitation. A lot of attention is being paid to the issue by actors who are raising awareness and mobilising other citizens. More and more citizens are demanding that these human rights be respected, that the authorities invest more in the sector and that water and sanitation be prioritised, for example in this news report about a protest by women in Gaoua about broken water sources (lefaso.net 2019).

From the perspective of the authorities, it is clear that the discourse of responsibilities has changed. There is evidence in policy and strategy of greater targeting of services towards the most marginalised, and the Minister for Water and Sanitation is held to account through sessions hosted by Presimetre, the platform for dialogue and citizen accountability (Ouedraogo 2020).

From the citizens' perspective, the demand is stronger and authorities are more responsive. For example, officials who are not performing are replaced. Officials who previously avoided direct contact with communities are now sitting with them each year to agree how to mobilise resources for WASH. This includes the annual contributions made by community members to community organisations to maintain the WASH facilities and increases the accountability of those community organisations.

These experiences show how the focus on raising awareness about rights and responsibilities among rights holders and duty bearers is helping to address one of the key causes of exclusion: the lack of political will to reach the marginalised communities. The consistent engagement between people and authorities is strengthening the mobilisation, planning, and accountability for resources to back up the political commitments for universal WASH.

### Human rights content and principles in policy and applied to services

The four countries have, respectively, signed up to international treaties that commit them to the realisation of human rights to water and sanitation. While each country recognises the human rights to water and sanitation in domestic laws and policies to different extents, the enabling institutional framework required to enforce the rights is not complete in any of the four countries.

In Nepal, the conversation about human rights to water and sanitation has grown over the last 15–20 years, backed by civil society organisations, water user federations, and others. In 2015, the Constitution of Nepal was passed recognising the right to water and sanitation as fundamental rights of its citizens, a nationally owned commitment from which to advocate for further domestication and application of the rights. Organisations like WaterAid are now helping the government to put this policy commitment into practice and push for universal access. The Constitution provides a high-level commitment that needs to be translated into laws guaranteeing the rights to education and health and rights to water and sanitation for all citizens of Nepal. It provides the space for duty bearers and civil society to work on it, and WaterAid Nepal commissioned a policy analysis of human rights to water and sanitation to inform and direct its advocacy.

However, the specific laws required to enforce these constitutional rights are yet to be formulated. A water-related bill was drafted by the government a few years back, but it did not cover all aspects of the right to water and sanitation. WaterAid Nepal is part of the core technical committee for drafting and finalising the bill 2018–2019 ensuring the inclusion of all the elements of rights related to water and sanitation. WaterAid has also supported the Federation of Drinking Water and Sanitation Users to lobby with parliamentarians to incorporate their agenda in the water and sanitation bill and has oriented the Chair and members of Development and Technical Committee of Parliament on the principles and contents of human rights to water and sanitation. As a result, the current water and sanitation bill reflects the content of human rights to water and sanitation and when (if) passed will provide a strong legal framework for holding the state to account. This means that if a community or person gets dirty water from service providers, they can charge them. The bill informs the discussion about tariffs for equitable access, and the draft bill is already being used as leverage to lobby the local governments (which are autonomous) to draft local acts that align to constitutional provisions. However, it has not been given due priority to finalise it and present it to the parliament. The bill was presented in the parliament in 2020, but the theoretical discussion was postponed due to the pandemic and political instability in Nepal.

Meanwhile, WaterAid and others have been able to base advocacy for WASH on the constitutional commitment and have seen the government's budgetary allocation to WASH increasing incrementally in spite of the restricted budget overall; and the government commitment to provide one tap per house in 5 years. The implementation of these commitments is compromised by the restructuring of government and the lack of governance mechanisms. Nevertheless, the constitutional commitment has enabled government prioritisation of WASH funding at the local level. The federal government releases resources to rural municipalities for allocation to different activities in the sector. The Jal Kachahari report ([Mountain Today Daily 2019](#)) shows that more than 20% of its resources have been allocated to reaching water to vulnerable people. The government is seeking to fill the resource gap by coordinating with the contributions of development organisations such as WaterAid that has demonstrated 23 schemes in three rural municipalities. The challenge now is not the intention to deliver, but the institutional capacity. The main barriers include weaknesses in policies, plans, human capacity, and supply chains.

On the demand side, the constitutional commitment has shifted the focus of communities to quality and availability. Furthermore, the discussion on rights and responsibilities has generated greater incentive for them to take better care of the resource, whereas traditionally water has previously been considered as an abundant natural resource to be accessed for free. A typical attitude can be expressed as 'god has given us so much water – we think it is always there and free'.

Similarly, in Ghana, the human rights to water and sanitation are not explicit in the 1992 constitution. The closest reference is 'Article 35 [...] 3. The State shall promote just and reasonable access by all citizens to



public facilities and services in accordance with law'. Ghana adopted several international resolutions and co-sponsored the General Assembly resolution 68/157 in 2013, the first resolution where all UN Member States affirmed that the human right to safe drinking water and sanitation is legally binding in international law. The Government of Ghana and its Development Partners (DPs) have acknowledged that access to water and sanitation should be treated as rights, and some efforts have been made to integrate rights to water and sanitation in key strategic documents to serve as a basis for a progressive realisation of the rights. However, not having the rights to water and sanitation explicitly in the constitution is seen as a limitation. While these rights could be derived from international treaties and from the African Charter on Human and Peoples Rights, it does not accord the same legitimacy as recognition in the Constitution; it is more subject to interpretation, the legal framework for the protection of citizens is lacking, with a risk of politicisation of issues along party lines and potential victimisation of people demanding rights.

WAG supported and pushed for WASH integration into the Nationally Determined Contributions (NDCs) to address Climate Change challenges and WASH/IPS in Healthcare Facilities national guidelines and development of the National NTDs Master Plan and investment case through our influencing work and serving on various national technical committees. Furthermore, as part of integrating HRBA into WaterAid Ghana's intervention, conscious efforts have been made to build the capacity of communities to demand for rights enforcement.

The government of Burkina Faso, like Nepal, has included the human rights to water and sanitation in its constitution. WaterAid was one of the key organisations lobbying for this in 2015 when the constitution was drafted. To aid implementation, WaterAid Burkina Faso commissioned an additional analysis of relevant frameworks and mechanisms at the start of its Mission Fas'Eau project in 2018 to identify gaps to work on. The human rights to water and sanitation are now explicitly recognised in various policy documents, originating from the constitution, and further recognised in the national Water Policy and national water and sanitation sector programmes. Further legislation and regulation are underway, and in March 2019 Burkina Faso adopted a decree defining standards, criteria and indicators for access to water and sanitation derived from these rights.

WaterAid and other WASH actors have used human rights principles to inform their participation in the evaluation of the performance of the water and sanitation sector and in the development and review of WASH sector policy and strategy documents ([lefaso.net](http://lefaso.net) 2021), the development and validation of the HRBA gender mainstreaming manual and its water and sanitation sub-sector action plan; the selection of disadvantaged areas and localities that do not have access to water and sanitation services for investment; the adoption of the Integrated Monitoring and Evaluation System (DISE) of the Ministry of Water and Sanitation programmes; and the definition of HRBA indicators for the five national programmes of the water and sanitation sector.

The obligations in the constitution provide leverage to push authorities towards more action. WaterAid represents civil society in a periodic report to the UN, ensuring that it incorporates a certain number of points on water and sanitation. Citizens can also claim because these are constitutional rights. Moreso, there is increasingly greater awareness of accountability for providing access to WASH as a legal obligation on the part of the government and more budgetary allocation to the sector.

In Mali, the human rights to water and sanitation have been ratified in international treaties and conventions and are considered through various national policies, action plans, programmes, and institutional arrangements for the development of water services and sanitation. However, they are not embedded in the constitution and are not integrated explicitly into the legal framework for the sector.

The WaterAid teams use the international commitments to advocate for human rights standards and principles to be applied to WASH services through legislation, policy review processes, engaging with parliamentarians, and through the monitoring and planning processes at local and national levels. For example, working with local authorities to review and prioritise WASH in the 2017–2021 Programme de Développement Économique Social et Culturel (PDSEC) in our intervention areas (PDSEC Commune VI 2017–2021). The prioritisation of ODD6 in the PDSECs has allowed WaterAid to advocate for an increase in the communal budget allocated to WASH at the local level. For example, in the CVI of the District of Bamako, the rate has increased by more than 40%. Also, local authorities have committed to allocating 15% of the authorised budget to WASH in all WaterAid intervention communes. Monitoring of this commitment is underway to ensure compliance. In 6/16 communes of intervention of the Beseya Blon project, we have seen an increase in the budget rate to over 10%. However, the challenge remains the low capacity of local authorities to mobilise resources. Other results include the availability of WASH-sensitive PDSECs in all Beseya Blon project intervention communes (16

communes). Currently, WaterAid is working with the authorities to revise the expired Sector Wide Development Plans by prioritising the SDG6 targets and integrating human rights principles and standards.

WaterAid and partners also support duty bearers by carrying out vulnerability studies and developing WASH services that demonstrate how the standards and principles can be applied in practice. They have also supported specific challenges on rights violations that are addressed through policy change. For example, an investigation into the alleged violation of human rights in relation to the dumping of faecal sludge in the community of Gouana, described above, elicited a government response, committing to allocate land for the safe treatment of faecal sludge. Recognising the human rights to water and sanitation in the constitution would further enable advocacy.

### **Human rights as people-centred – focus on equality and non-discrimination**

WaterAid's focus has always been on hard-to-reach communities, applying human rights principles of equality and non-discrimination, and of participation. The projects all involve participatory work with marginalised people and communities, women's rights, and disability organisations to strengthen their capacity and ensure their voices are heard and influence service provision. The HRBA considers people as agents of change and that increased capacity, agency, and leadership strengthens their position in all spheres of their life. WaterAid's revised equality, inclusion, and rights framework (WaterAid 2020) emphasises the importance of working through inclusive towards empowering and transformative approaches that foster meaningful partnerships and ultimately transform the power imbalances that stand in the way of equality.

In Nepal, WaterAid followed a systematic process to understand the dynamics of marginalisation in Nepal and to identify project areas that would require them to work with very marginalised communities to overcome barriers to WASH. The community sessions and training approaches on human rights to water and sanitation were designed and executed to empower people so they can claim their rights. The Jal Kachahari was organised in a way to raise the voice and concerns of local people related to water and sanitation and strengthen their relationships with the authorities, to work together towards ensuring access.

In Ghana, WaterAid and its partners invested time and resources to develop the capacity of advocacy groups and women's groups in the communities using participatory methods. The tools used for this include community institution and resource mapping (CIRM); community visioning and planning (CVAP) to visualise what the group want to become or see themselves in 10–20 years, community organization self-assessment (COSA) to assess capacity, weaknesses and aspirations; and capacity institutional strengthening (CIS) to identify and strengthen gaps in capacity. The project also used the Make Rights Real approach (Carrard 2020) to strengthen the awareness of rights to water and sanitation among these groups and fuel their engagement with local authorities.

In Mali, there were specific activities that focused on the empowerment of marginalised community members, women, and youth, for example helping to establish income-generating businesses such as soap making and market gardening, ensuring access to capital and training in entrepreneurship, helping to carry out governance assessment in grassroots community organisations, and the establishment of citizen watch committees in health centres and at the urban level. The women's groups are now more actively involved in supporting services and wider development through the training in rights and leadership. One woman is now managing a cooperative of more than 300 men and women, with increased power and influence over decisions.

In Burkina Faso, there were specific capacity-building activities for people living with disabilities at the local level, intentional involvement of citizens and civil society organisations in the development and implementation of projects, and diversification of partnerships with local organisations, including women's organisations. There was also a focus on innovations to reach everyone with our WASH services, for example subsidised latrines for the most vulnerable, developing and promoting latrines for people with disabilities, and managing menstrual hygiene in schools.

WaterAid in Burkina Faso also actively involves citizens in service delivery projects, recognising that empowerment is about being at the centre of actions and becoming a true actor of change. Some notable examples are the involvement of women's and youth associations at the local level to carry out our sanitation projects through training and community outreach, which strengthens their knowledge about WASH and they become advocates in their communities. In addition, it supports the organisational development of their associations, which sometimes leads them to participate in other activities, such as forming cooperatives. The fact that they are members of the community allows for sustainability.

Project managers have seen government authorities prioritising vulnerable people in target selection, giving greater consideration of their needs and constraints in investments and increased awareness of the need for their involvement in WASH service delivery, for example through concerted efforts to integrate gender into the 2021–2025 action plan of the Ministry of Water and Sanitation ([Ministère de l'Eau et de l'Assainissement 2021](#)).

### Enabling and constraining factors

The use of human rights as a tool is enabled where there is a wider discourse on human rights between people and governments. Collaboration with other organisations with experience on human rights and HRBA is a critical enabling factor. While the specific application of rights is still quite limited among stakeholders in the WASH sector, there is much wider adoption of a rights-based approach in areas such as health, education, gender, and disability. In the selected projects, WaterAid was collaborating with a range of local (and some international) partners and coalitions who used their experience of HRBAs and legal aspects of human rights. Some partners had a specific experience of WASH but not all. Mobilising this range of expertise is having a demonstrable effect on rights holders and duty bearers, enabling more constructive and participatory decision-making to find solutions and resources to address WASH needs.

The examples shared here also demonstrate the advantage of having human rights to water and sanitation in the national constitution. Advocates in Nepal and Burkina Faso can use these commitments to engage with all different stakeholders on roles and responsibilities to realise rights. It provides a strong basis to add the relevant content into policies, legislation, plans, and monitoring tools. Where human rights are derived from international commitments (as in Ghana and Mali) it is still possible, but more difficult to bring all stakeholders on board.

Social and customary norms are both enabling and constraining factors. They are enablers where the human rights principles converge with traditional practice traditions for water, as identified in the study into the socio-cultural levers favourable to the promotion of human rights to water and sanitation, carried out to inform the design of the project in Burkina Faso ([FAS'EAU 2018](#)). This makes it easier to raise awareness and interest in the principles and content of human rights by building on existing practices. As an example, in relation to non-discrimination and equality, the study found that the elderly, children, people living with disabilities and other vulnerable people (sick people, pregnant women, etc.) are exempt from community work. However, they are entitled to the benefits of the work, including to use the water and sanitation facilities in the same way as others. Another finding is in relation to participation: every member of the community (man/woman) can participate in community activities. This is irrespective of social strata. Freedom is left to the different strata to participate according to their means. For example, shopkeepers and farmers participate with cash, food-stuffs, or an animal (sheep, goat, etc.) for cooking. Older people make blessings and prayers in order to find water.

On the other hand, social norms are often a constraint, especially in issues of equality and non-discrimination. Women are generally disadvantaged in all questions of governance, direct participation and management, and suffer wider discrimination, for example, due to taboos around menstruation. However, through the increasing awareness, advocacy, organisation, and capacity strengthening on HRBA, women's participation and the inclusion of other marginalised groups are increasing. Persons with disabilities are also widely stigmatised in traditional practices and excluded from decision-making. Where there has been a focus on their participation supported by partnerships with organisations of persons with disabilities, this has helped to address attitudinal barriers to inclusion.

Another major constraint to the effectiveness of human rights as a tool is the generally low commitment among political leaders to increase funding allocation for WASH, beyond paying lip service to rights. As a result, local authorities, with limited resources and competing priorities, are not able to respond to community demands. Notwithstanding, as illustrated above, all the projects have helped to mobilise resources and increase allocation towards marginalised groups, while also strengthening the accountability for budget expenditure.

The limited motivation of community members to participate in projects can be a constraint, especially where communities have previously tried and failed to get a response from the authorities. The results above show the potential benefits, but community members, especially women, have many competing priorities for their time. It requires time and skilled facilitation by committed and experienced organisations to build trust and capacity in a way that is truly empowering. Indeed, this is the main investment required.

The limited capacity of the state and low trust between state and people are common across all countries. This relationship is further stressed by increasing challenges through impacts of climate change, Covid, and insecurity,

which governments globally are failing to address in a way that satisfies citizens. While this is a constraint to the impact of the rights-based approach, it could be argued that the approach is even more important in such situations. Where governments are using these crises to renege on commitments to support marginalised people, the human rights provide some leverage for people to continue to demand support. For example, the low security in the Sahel has resulted in governments abandoning their responsibilities for communities in areas dominated by terrorist groups, where displaced people are moving to different villages, exacerbating WASH needs. Communities with more awareness of human rights are using their understanding to call on the state to fulfil their responsibilities for basic rights to WASH and for providing security. Terrorists are not taking responsibilities for the Communities they occupy; in fact, they are often destroying water supplies to increase their control.

The awareness of human rights in the water and sanitation sector is relatively low, resulting in limited commitment and support for addressing human rights issues among technical and financial partners for WASH who still prioritise investment in infrastructure. Although some donors, including Danida, Global affairs Canada, and Sida consistently champion a HRBA (Sida 2020), it is still difficult to access the funding needed to integrate human rights principles in WASH projects and programmes through the activities described here. There is limited knowledge and capacity among WASH actors on how to design services and facilities that meet human rights standards of quality, accessibility, acceptability, affordability, and availability. For example, this guide on female-friendly public and community toilets (WaterAid 2018) was developed to address the dearth of public toilets that are accessible and acceptable for women and people with disabilities.

Indicators and tools needed to provide a rigorous and objective assessment of the extent to which interventions apply a HRBA are not yet widely available for WASH interventions and have not been used on the projects described here. The conceptual and methodological framework of the Office of the High Commissioner of Human Rights (OHCHR n.d.) recommends the development of indicators to assess commitments and acceptance of international human rights standards (structural indicators); to the efforts made to meet the obligations that flow from the standards (process indicators); and in the results of these efforts (outcome indicators). These aspects have been considered throughout this paper but without applying a clear evaluation frame it is not possible to give a comprehensive analysis of progress. For example, without disaggregated data, it is not possible to tell the extent to which WASH facilities are accessible and acceptable to women, children, and people with disabilities, who are enabled to participate in decision-making and who now has the capacity to maintain services or to hold duty bearers to account. WASH evaluations are heavily weighted towards measuring outcomes, for example the evaluation of the WASH4PH project in Ghana (Fremphah-Yeboah 2020). This tends to skew effort and funding away from the process-focused interventions discussed in this paper.

## CONCLUSION AND WIDER IMPLICATIONS FOR WASH SYSTEMS AND HUMAN RIGHTS

The experiences documented here demonstrate that a HRBA to WASH interventions helps to generate greater awareness among rights holders and duty bearers about responsibilities and entitlements to safe drinking water and sanitation. Constructive engagement between the state and people increases the resource mobilisation and accountability needed ensure sustainable and inclusive services, especially to marginalised populations with limited political and economic power. This is supported by strengthening the human rights content in legal and policy frameworks and plans. All these aspects are deepened through collaboration with other actors focused on human rights and governance. There are many examples of these qualitative changes, although the lack of an evaluation framework makes it impossible to demonstrate conclusively.

Rights alone are not enough, but the HRBA adds a sustained value to any attempts to strengthen systems for WASH by providing leverage, policy content, and by providing people with the motivation, skills, and agency required the human rights add critical dimensions to work on sustainable WASH. WASH sector should, therefore, embrace the power of human rights and invest in the specific activities and frameworks to integrate human rights into systems strengthening of the WASH sector, while continuing to analyse and learn how to adapt and improve the approach in different contexts.

## DATA AVAILABILITY STATEMENT

All relevant data are included in the paper or its Supplementary Information.



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